

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**AIR FOODMART, INC. and
RAFIQ MERCHANT,**

Plaintiffs,

v.

LEASE FINANCE GROUP, LLC

Defendant.

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Case No. 3:09-cv-1134

(Removed from the 44th Judicial

District Court, Dallas County, Texas)

**DEFENDANT’S NOTICE OF WITHDRAWAL
OF MOTION TO DISMISS WITHOUT PREJUDICE**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, Lease Finance Group, LLC (“LFG”), hereby gives Notice of the Withdrawal without prejudice to the refilling of its Motion to Dismiss or, in the alternative, Motion to Transfer Venue filed on June 23, 2009, in the captioned matter. This Motion was set for hearing at 1:30 p.m. on Monday, March 22, 2010, by the Court’s Order of February 5, 2010.

Pursuant to that Order, discovery limited to the issues raised by the pending Motion and Plaintiff’s Response was authorized prior to the issuance of an initial Scheduling Order/Rule 26 Conference. Defendant was unable to complete meaningful discovery in the limited time frame authorized due to scheduling conflicts, including the death of the lead counsel’s father after the Order was issued. Likewise, Plaintiffs’ Response raised issues that go to the underlying merits of the case that need to be developed by full discovery, rather than the limited expedited discovery previously authorized by the Court. Consequently, Defendant, Lease Finance Group, respectfully withdraws its pending Motion without prejudice and requests the Court instead to issue a Scheduling Order so that matters can proceed apace.

Respectfully submitted,

/s/ Wm. Bruce Stanfill

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**ATTORNEYS FOR DEFENDANT
LEASE FINANCE GROUP, LLC**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been forwarded to all counsel of record as listed below by e-filing in compliance with the applicable Federal Rules of Civil Procedure, on the 10th day of March, 2010.

Greg Gutman, Esq.
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/s/ Sarah B. Davis
Sarah B. Davis